

BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

IN RE TEST CLAIM ON:

Government Code Section 7576, as amended
by Statutes of 1996, Chapter 654;
California Code of Regulations, Title 2,
Division 9, Chapter 1, Sections 60000-60610;
and
California Department of Mental Health
Information Notice Number 86-29

Filed on December 22, 1997

By the County of Los Angeles, Claimant.

No. 97-TC-05

*Seriously Emotionally Disturbed (SED)
Pupils: Out-of-State Mental Health Services*

ADOPTION OF PARAMETERS AND
GUIDELINES PURSUANT TO
GOVERNMENT CODE SECTION 17557
AND TITLE 2, CALIFORNIA CODE OF
REGULATIONS, SECTION 1183.12

*(Adopted on October 26, 2000; Corrected on
July 21, 2006)*

CORRECTED PARAMETERS AND GUIDELINES

On October 26, 2000, the Commission adopted the staff analysis and proposed parameters and guidelines for this program. Page 5 of the analysis adopted by the Commission states the following:

Residential Costs

It is the County of Santa Clara's position that the proposed Parameters and Guidelines do not provide reimbursement for "residential costs" of out-of-state placements. Staff disagrees. ***The Commission, in its Statement of Decision for this mandate, found that payment of out-of state residential placements for SED pupils is reimbursable.*** The Commission's regulations require Parameters and Guidelines to describe specific costs that are reimbursable, including one-time and on-going costs, and the most reasonable methods of complying with the mandate.¹ It is staff's position that ***the cost of out-of-state residential placement of SED pupils would reasonably include the board and care of that pupil while they are out-of-state, and therefore, staff finds that residential costs are covered under payment of out-of-state residential placement for SED pupils.*** Staff does not propose any changes to Claimant's Revised Proposed Parameters and Guidelines, since Section IV., entitled "Reimbursable Activities, B. Continuing Costs, 1. Mental Health Service Vendor Reimbursements," already provides for reimbursement to counties for "payments to service vendors providing mental health services to SED pupils in out-of-state residential placements as specified in Government Code section 7576 and the California Code Regulations, Title 2, subsections 60100 and 60110." It is staff's position that ***under Section IV., the***

¹ Title 2, California Code of Regulations, section 1183.1 (a) (4).

term “payments to service vendors providing mental health services to SED pupils in out-of-state residential placements” includes reimbursement for “residential costs” of out-of-state placements. (Emphasis added.)

In order for the parameters and guidelines to conform to the findings of the Commission, this correction is being issued. The following underlined language is added to Section IV (B), Reimbursable Activities:

1. Mental Health Service Vendor Reimbursements

To reimburse counties for payments to service vendors providing mental health services to SED pupils in out-of-state residential placements as specified in Government Code section 7576 and Title 2, California Code Regulations, sub divisions 60100 and 60110. Included in this activity is the cost for out-of-state residential board and care of SED pupils.

Dated: _____

Paula Higashi, Executive Director

Corrected Parameters and Guidelines

Government Code Section 7576
Statutes of 1996, Chapter 654

California Code of Regulations, Title 2, Division 9, Chapter 1, Sections 60000-60610
California Department of Mental Health Information Notice Number 86-29

Seriously Emotionally Disturbed (SED) Pupils: Out-of-State Mental Health Services

I. SUMMARY OF MANDATE

Government Code section 7576, as amended by Statutes of 1996, Chapter 654, established new fiscal and programmatic responsibilities for counties to provide mental health services to Seriously Emotionally Disturbed (SED) pupils placed in out-of-state residential programs. In this regard, Title 2, Division 9, Chapter 1 of the California Code of Regulations, sections 60000 through 60610, were amended to further define counties' fiscal and programmatic responsibilities including those set forth under section 60100 entitled "LEA Identification and Placement of a Seriously Emotionally Disturbed Pupil," providing that residential placements for a SED pupil may be made out-of-state only when no in-state facility can meet the pupil's needs, and under section 60200 entitled "Financial Responsibilities," detailing county mental health and LEA financial responsibilities regarding the residential placements of SED pupils.

On May 25, 2000, the Commission on State Mandates (Commission) adopted its Statement of Decision on the subject test claim, finding the following activities to be reimbursable:

- Payment of out-of state residential placements for SED pupils. (Gov. Code, § 7576, Cal. Code Regs., tit. 2, §§ 60100, 60110)
- Case management of out-of-state residential placements for SED pupils. Case management includes supervision of mental health treatment and monitoring of psychotropic medications. (Gov. Code, § 7576, Cal. Code Regs., tit. 2, § 60110.)
- Travel to conduct quarterly face-to-face contacts at the residential facility to monitor level of care, supervision, and the provision of mental health services as required in the pupil's Individualized Education Plan (IEP). (Cal. Code Regs., tit. 2, § 60110.)
- Program management, which includes parent notifications, as required, payment facilitation, and all other activities necessary to ensure a county's out-of-state residential placement program meets the requirements of Government Code section 7576 and Title 2, California Code of Regulations, subdivision 60000- 60610. (Gov. Code, § 7576; Cal. Code of Regs., tit. 2, §§ 60100, 60110.)

II. ELIGIBLE CLAIMANTS

Counties.

III. PERIOD OF REIMBURSEMENT

Section 17557 of the Government Code, prior to its amendment by Statutes of 1998, Chapter 681, stated that a test claim must be submitted on or before December 31 following a given fiscal year to establish eligibility for that year. This test claim was filed by the County of Los Angeles on December 22, 1997. Statutes of 1996, Chapter 654, was enacted on September 19, 1996 and became effective on January 1, 1997. Therefore, costs incurred in implementing Chapter 654, Statutes of 1996 on or after January 1, 1997, are eligible for reimbursement.

Actual costs for one fiscal year shall be included in each claim. Estimated costs for the subsequent year may be included on the same claim, if applicable. Pursuant to section 17561, subdivision (d)(1) of the Government Code, all claims for reimbursement of initial years' costs shall be submitted within 120 days of notification by the State Controller of the enactment of the claims bill.

If total costs for a given year do not exceed \$200, no reimbursement shall be allowed, except as otherwise allowed by Government Code section 17564.

IV. REIMBURSABLE ACTIVITIES

The direct and indirect costs of labor, materials and supplies, contracted services, equipment, training, and travel incurred for the following mandate components are eligible for reimbursement:

B. One-Time Costs

1. To develop policies, procedures and contractual arrangements, necessary to implement a county's new fiscal and programmatic responsibilities for SED pupils placed in out-of-state residential programs.
2. To conduct county staff training on the new policies, procedures and contractual arrangements, necessary to implement a county's new fiscal and programmatic responsibilities for SED pupils placed in out-of-state residential programs.

C. Continuing Costs

1. Mental Health Service Vendor Reimbursements

To reimburse counties for payments to service vendors providing mental health services to SED pupils in out-of-state residential placements as specified in Government Code section 7576 and Title 2, California Code Regulations, sub divisions 60100 and 60110. Included in this activity is the cost for out-of-state residential board and care of SED pupils.

2. Case Management

To reimburse counties for case management of SED pupils in out-of-state residential placements, including supervision of mental health treatment and monitoring of psychotropic medications as specified in Government Code section 7576 and Title 2, California Code of Regulations, sub division 60110, including the costs of treatment related litigation (including administrative proceedings) over such issues as placement

and the administration of psychotropic medication. Litigation (including administrative proceedings) alleging misconduct by the county or its employees, based in negligence or intentional tort, shall not be included.

3. Travel

To reimburse counties for travel costs necessary to conduct quarterly face-to-face contacts at the residential facility to monitor level of care, supervision, and the provision of mental health services as required in the pupil's IEP as specified in Title 2, California Code of Regulations, subdivision 60110.

4. Program Management

To reimburse counties for program management costs, which include the costs of parent notifications as required, payment facilitation, and all other activities necessary to ensure a county's out-of-state residential placement program meets the requirements of Government Code section 7576 and Title 2, California Code of Regulations, subdivisions 60100 and 60110.

V. CLAIM PREPARATION AND SUBMISSION

Each claim for reimbursement must be timely filed and identify each cost element for which reimbursement is claimed under this mandate. Claimed costs must be identified to each reimbursable activity identified in Section IV. of these Parameters and Guidelines.

A. Direct Costs

Direct costs are defined as costs that can be traced to specific goods, services, units, programs, activities or functions.

Claimed costs shall be supported by the following cost element information:

1. Salaries and Benefits

Identify the employee(s), and/or show the classification of the employee(s) involved. Describe the reimbursable activities performed and specify the actual time devoted to each reimbursable activity by each employee, productive hourly rate and related fringe benefits.

Reimbursement for personnel services includes compensation paid for salaries, wages and employee fringe benefits. Employee fringe benefits include regular compensation paid to an employee during periods of authorized absences (e.g., annual leave, sick leave) and the employer's contribution to social security, pension plans, insurance, and worker's compensation insurance. Fringe benefits are eligible for reimbursement when distributed equitably to all job activities which the employee performs.

2. Materials and Supplies

Only expenditures that can be identified as direct costs of this mandate may be claimed. List the cost of the materials and supplies consumed specifically for the purposes of this mandate. Purchases shall be claimed at the actual price after deducting cash discounts, rebates and allowances received by the claimant. Supplies that are withdrawn from inventory shall be charged based on a recognized method of costing, consistently applied.

3. Contract Services

Provide the name(s) of the contractor(s) who performed the services, including any fixed contract for services. Describe the reimbursable activity(ies) performed by each named contractor and give the number of actual hours spent on the activities, if applicable. Show the inclusive dates when services were performed and itemize all costs for those services.

4. Fixed Assets

List the costs of the fixed assets that have been acquired specifically for the purpose of this mandate. If the fixed asset is utilized in some way not directly related to the mandated program, only the pro-rata portion of the asset which is used for the purposes of the mandated program is eligible for reimbursement.

5. Travel

Travel expenses for mileage, per diem, lodging, and other employee entitlements are eligible for reimbursement in accordance with the rules of the local jurisdiction. Provide the name(s) of the traveler(s), purpose of travel, inclusive dates and times of travel, destination points, and travel costs.

6. Training

The cost of training an employee to perform the mandated activities, as specified in Section IV of these Parameters and Guidelines, is eligible for reimbursement. Identify the employee(s) by name and job classification. Provide the title and subject of the training session, the date(s) attended, and the location. Reimbursable costs may include salaries and benefits, registration fees, transportation, lodging, and per diem.

B. Indirect Costs

Indirect costs are defined as costs which are incurred for a common or joint purpose, benefiting more than one program and are not directly assignable to a particular department or program without efforts disproportionate to the result achieved. Indirect costs may include both: (1) overhead costs of the unit performing the mandate; and (2) the costs of central government services distributed to other departments based on a systematic and rational basis through a cost allocation plan.

Compensation for indirect costs is eligible for reimbursement utilizing the procedure provided in the OMB A-87. Claimants have the option of using 10% of direct labor, excluding fringe benefits, or preparing an Indirect Cost Rate Proposal (ICRP) for the department if the indirect cost rate exceeds 10%. If more than one department is claiming indirect costs for the mandated program, each department must have its own ICRP prepared in accordance with OMB A-87. An ICRP must be submitted with the claim when the indirect cost rate exceeds 10%.

VI. SUPPORTING DATA

For auditing purposes, all costs claimed shall be traceable to source documents (e.g., invoices, receipts, purchase orders, contracts, worksheets, calendars, declarations, etc.) that show evidence of the validity of such costs and their relationship to the state mandated program. All documentation in support of the claimed costs shall be made available to the State Controller's Office, as may be requested. Pursuant to Government Code section 17558.5, these documents must be kept on file by the agency submitting the claim for a period of no less than two years after the later of (1) the end of the calendar year in which the reimbursement claim is filed or last amended, or (2) if no funds are appropriated for the fiscal year for which the claim is made, the

date of initial payment of the claim. All claims shall identify the number of pupils in out-of-state residential programs for the costs being claimed.

VII. OFFSETTING SAVINGS AND OTHER REIMBURSEMENTS

Any offsetting savings the claimant experiences as a direct result of the subject mandate must be deducted from the costs claimed. In addition, reimbursement for this mandate received from any source, including but not limited to federal funds and other state funds, shall be identified and deducted from this claim.

VIII. STATE CONTROLLER'S OFFICE REQUIRED CERTIFICATION

An authorized representative of the claimant shall be required to provide a certification of the claim, as specified in the State Controller's Office claiming instructions, for those costs mandated by the State contained herein.